

DEFENDANT'S

CIVIL CASE MANAGEMENT PLAN

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED
AK

JUL 07 2003

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LAWRENCE K. BAERMAN, CLERK
ALBANY

JULIE A. McGRATH

NO. 1 : 03 CV 483

VS.

DNH/DRH

NATIONAL LIFE INSURANCE CO.

(Handwritten circle with a checkmark and initials)

IT IS HEREBY ORDERED that, pursuant to Rule 16(b), Federal Rules of Civil Procedure, a status and scheduling conference will be held in this case before the Honorable David R. Homer, United States Magistrate Judge on July 16, 2003 at 11:30 a.m. at the United States Courthouse, Room No Chamber at Albany, New York.

Counsel for all parties or individuals appearing pro se in the above-captioned action are directed to confer in accordance with Fed. R. Civ. P. 26(f) with respect to all of the agenda items listed below. The report of the parties is to be filed with the clerk no later than ten (10) days prior to the above scheduled conference date. Matters which the Court will discuss at the status conference will include the following: (Insert a separate subparagraph as necessary if parties disagree).

- 1) **JOINDER OF PARTIES:** Any application to join any person as a party to this action shall be made on or before the day of 1st day of September, 2003.
- 2) **AMENDMENT OF PLEADINGS:** Any application to amend the pleadings to this action shall be made on or before the 1st day of September, 2003.
- 3) **DISCOVERY:** All discovery in this action shall be completed on or before the 1st day of January, 2004. (**Discovery time table is to be based on the complexity of the action**).
- 4) **MOTIONS:** All motions, including discovery motions, shall be made on or before the 1st day of April, 2004.
- 5) **PROPOSED DATE FOR THE COMMENCEMENT OF TRIAL:** The action will be ready to proceed to trial on or before the 1st day of July, 2004. It is anticipated that the trial will take approximately days to complete. The parties request the trial to be held in Albany (New York). (**The proposed date for the commencement of trial must be within 18 months of the filing date**).
- 6) **HAVE THE PARTIES FILED A JURY DEMAND:** X (YES) / (NO).

7) DOES THE COURT HAVE SUBJECT MATTER JURISDICTION? ARE THE PARTIES SUBJECT TO THE COURT'S JURISDICTION? HAVE ALL PARTIES BEEN SERVED? Yes. There is diversity jurisdiction

8) WHAT ARE THE FACTUAL AND LEGAL BASES FOR PLAINTIFF'S CLAIMS AND DEFENDANT'S DEFENSES (INCLUDE COUNTERCLAIMS & CROSSCLAIMS, IF APPLICABLE)? Plaintiff seeks disability benefits under two (2) contracts with defendant, alleging she can no longer perform the material and substantial duties of her occupation. Defendant denied benefits because Plaintiff is allegedly not disabled as defined under the contract.

9) WHAT FACTUAL AND LEGAL ISSUES ARE GENUINELY IN DISPUTE? Whether and to what extent Plaintiff is disabled and the proper interpretation of the contract as it relates to the definition of disability.

10) CAN THE ISSUES IN LITIGATION BE NARROWED BY AGREEMENT OR BY MOTIONS? ARE THERE DISPOSITIVE OR PARTIALLY DISPOSITIVE ISSUES APPROPRIATE FOR DECISION ON MOTION? Defendant may seek Summary Judgment as to the legal effect of the contract between the parties.

11) WHAT SPECIFIC RELIEF DO THE PARTIES SEEK? WHAT ARE THE DAMAGES SOUGHT? Plaintiff seeks \$500,000 in benefits under the contracts.

12) WHAT DISCOVERY DOES EACH PARTY INTEND TO PURSUE? CAN DISCOVERY BE LIMITED? ARE LESS COSTLY AND TIME-CONSUMING METHODS AVAILABLE TO OBTAIN INFORMATION? Interrogatories, document demands, depositions, and independent medical examinations.

13) IS IT POSSIBLE TO REDUCE THE LENGTH OF TRIAL BY STIPULATIONS, USE OF SUMMARIES OR STATEMENTS, OR OTHER EXPEDITED MEANS OF PRESENTING EVIDENCE? IS IT FEASIBLE AND DESIRABLE TO BIFURCATE ISSUES FOR TRIAL? Not known at this time.

14) ARE THERE RELATED CASES PENDING BEFORE THE JUDGES OF THIS COURT? No.

15) IN CLASS ACTIONS, WHEN AND HOW WILL THE CLASS BE CERTIFIED?
N/A

16) WHAT ARE THE PROSPECTS FOR SETTLEMENT? Please circle below the prospect for settlement:

1----2----3----4----5----6----7----8----9----10
(VERY UNLIKELY) (LIKELY)

CANNOT BE EVALUATED PRIOR TO Completion of motion practice (DATE)

HOW CAN SETTLEMENT EFFORTS BE ASSISTED?

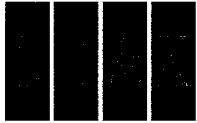
Settlement conference after discovery and motions.

(Do not indicate any monetary amounts at this time, settlement will be explored by the Magistrate Judge at the time of the initial status conference).

COMPLETE QUESTION 17 ONLY IF YOUR FILING ORDER COVER SHEET WAS CHECKED AS AN ADR TRACK CASE. THE PROGRAMS LISTED BELOW ARE COURT-ANNEXED AND NON-BINDING.

17) IF YOUR CASE WAS SELECTED AS A QUALIFYING CONTRACT OR TORT ACTION, PLEASE SELECT THE PREFERRED ADR METHOD.

_____ ARBITRATION
 X MEDIATION
_____ EARLY NEUTRAL EVALUATION



BOND, SCHOENECK & KING, PLLC

ATTORNEYS AT LAW ■ NEW YORK FLORIDA KANSAS

STUART F. KLEIN, ESQ.
Direct: 518-533-3224
kleins@bsk.com

July 7, 2003

VIA HAND DELIVERY

Court Clerk
United States District Court
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway
Albany, New York 12207

U.S. DISTRICT COURT
N.D. OF N.Y.
RECEIVED

JUL 07 2003

LAWRENCE K. BAERMAN, CLERK
ALBANY

Re: *McGrath v. National Life Insurance Co.*
03-CV-483 (DNH/DRH)

Dear Clerk:

Enclosed please find a copy of Defendant National Life Insurance Company's proposed Civil Case Management Plan. On July 2, 2003, Plaintiff's counsel was provided with a copy of the proposed Civil Case Management Plan. However, as of the date of this letter, he has not informed me as to whether the proposed dates meet with his approval.

The Rule 16 Conference in this matter is scheduled for July 16, 2003 at 11:30 a.m. before Magistrate Judge David R. Homer.

Very truly yours,

BOND, SCHOENECK & KING, PLLC

Stuart F. Klein

SFK/jrt
Enclosures

cc: Thomas DeLorenzo, Esq.